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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,786

11/04/2003

Michael Ellsworth Weedmark

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EXAMINER

CHERY, DADY

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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09/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/699,786	Applicant(s) WEEDMARK ET AL.	
	Examiner Dady Chery	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 0207.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This communication is responsive to the amendment filed on 08/02/2007.

Response to Arguments

1. Applicant's arguments filed on 08/02/2007 have been fully considered but they are not persuasive.

Soncodi clearly discloses a method to reroute traffic to a new path for different reasons such as fault recovery, rout optimization, bandwidth adjustment and load balance (Abstract). Which means determine if the old route must tear down for the reasons cited above and if it is the case rerouted the traffic to new route.

Soncodi also discloses cleared the old route (original path) (i.e.) torn down after the new route (alternate path) is established (Col.2, lines 46 –59 and Col. 5, lines 25 –29). This is substantially the same function described by the instant application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1- 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soncodi (US Patent 6,11,88,1, hereinafter Soncodi) in the view of So et al. (WO 98/49862).

Regarding claim 1, Soncodi discloses *a method of implementing an Active Connection Modify (ACM) for a connection in a communication system* (Fig. 3, and Fig. 4), *the connection initially lying along an original connection* (Fig. 4, C20, C30, C50)

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between a source node (C10) and a destination node (C60), the original connection conforming with at least one original traffic parameter, the method comprising the steps. establishing an alternate connection between the source node and the destination node (Fig. 4, C20, C30, C50).;

determining whether the connection along the original connection must be torn down (Col. 5, lines 22 –29); Soncodi discloses a method to release an original for route optimization ,QOS/bandwidth etc. This is the same function as determine if the original connection must be torn down.

if the connection along the original connection must be torn down, switching the connection to the alternate connection before tearing down the connection along the original connection.

Soncodi discloses a non-preemptive method to modify an active connection between a source and a destination and rerouting the traffic to an alternate path before release the original connection in response to some parameters (optimization, QOS/bandwidth, etc.). This is the same function as described by the instant application (Col. 5, lines 24 29). But, Soncodi does not clear disclose *attempting to implement the ACM along the original connection.*

However, Son clearly teaches a method of managing the resource requirement of an active connection (Page 3, lines 3 – 10).

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to manage the resource requirement of an active

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connection to determine whether or not a requested bandwidth change will be granted (Page 3, lines 20 –26).

Regarding claims 2 and 15, Soncodi discloses all the limitation of claim 2, except *the step of initiating a timer, and wherein the step of determining whether the connection along the original connection must be torn down comprises determining whether the timer expires before receipt of an ACM-related message at the source node from another node along the original connection.*

However, So teaches a method of initiating a timer by the network/user and determine if the timer is expired before receipt the modify request at the source along the original connection (Page 11, lines 28 – Page 12, lines 13).

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of So into the teaching of Soncodi for the purpose of managing resource requirement in a ATM network (abstract).

Regarding claims 3,4,16 and 17 Soncodi discloses *the step of establishing an alternate connection establishes an alternate connection so as to conform with the at least one original traffic parameter* (Col. 5, lines 24 – 29). The alternate connection is conformed to at least one parameter like QOS/bandwidth adjustment.

Regarding claims 5,7 , 18, and 20, Soncodi discloses a method to create a new connect a release message is generating at the border nodes (B20, B30) (Col. 5, lines 45 52). Which is considered as switching the connection to the alternate connection and tearing down the original connection.

Soncodi fails to teach the *steps of monitoring for receipt of a MODIFY REJECT message at the source node; and if a MODIFY REJECT message is received at the source node.*

However, Son teaches a method where the network owner (source node) monitoring the “bandwidth change indication” and if the network cannot the adopt the expected bandwidth the network owner (source node) release the connection or to reroute the connection (Page 13, lines 16 –19). Which is the same function as described by the instant application.

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of So into the teaching of Soncodi for the purpose of managing resource requirement in a ATM network (abstract).

Regarding claims 6 and 19, Soncodi discloses a preemptive method where the alternate connection is to be maintained evenly in conformance with at least one original traffic parameter (Col. 4, lines 65 – Col. 5, lines 20). Soncodi also discloses a non-preemptive method that has the same function as a protected and enabling ACM where an alternate route is create with new parameters like QOS/bandwidth adjustment etc. Soncodi Further discloses the step of determine whether the connection is preemptive or not (Col.5, lines 21- 52).

Soncodi also discloses a preemptive method and a non-preemptive method to create a new connect a release message is generating at the border nodes (B20, B30) (Col. 4, lines 65 – Col. 5, lines 43 -54). Which is considered as a protected and enabling

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modify connection and switching the connection to the alternate connection and tearing down the original connection.

Soncodi fails to teach the *steps of monitoring for receipt of a MODIFY REJECT message at the source node; and if a MODIFY REJECT message is received at the source node.*

However, Son teaches a method where the network owner (source node) monitoring the “bandwidth change indication” and if the network cannot the adopt the expected bandwidth the network owner (source node) release the connection or to reroute the connection (Page 13, lines 16 –19). Which is the same function as described by the instant application.

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of So into the teaching of Soncodi for the purpose of managing resource requirement in a ATM network (abstract).

Regarding claims 8 and 21, the method disclosed by Soncodi is implemented in an Asynchronous Transfer Mode communication system (Col. 1, lines 5 – 10).

Regarding claim 9, Soncodi discloses a PNNI for ATM, which has the same function as RSVP in MPLS network. But, Soncodi fails to teach MPLS communication system.

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However, MPLS network is a well-known system in the art. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a MPLS network to emulate some properties of a circuit-switched network over a packet-switched network.

Regarding claims 10, 11, 25 and 26, Soncodi in combination with Son disclose connection owner, which has the same function as an Active Connection Modify controller within a source for executing method of claims 1, 6, 14 and 19 as described the instant application (Page 2, lines 29 –35).

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of So into the teaching of Soncodi for the purpose of managing resource requirement in a ATM network (abstract).

Regarding claim 12 and 13, Soncodi in combination with Son disclose a computer-readable medium comprising instructions for executing the method claims 1 and 6. Because for executing the method of claims 1 and 6 the system must have a program installed on a memory.

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of So into the teaching of Soncodi for the purpose of managing resource requirement in a ATM network (abstract).

Regarding claim 14, Soncodi discloses *a method of implementing an Active Connection Modify (ACM) for a connection in a communication system* (Fig. 3, and Fig.

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4), *the connection initially lying along an original connection (Fig. 4, C20, C30, C50) between a source node (C10) and a destination node (C60), the original connection conforming with at least one original traffic parameter, the method comprising the steps. establishing an alternate connection between the source node and the destination node (Fig. 4, C20, C30, C50).*;

Soncodi also discloses a preemptive method and a non-preemptive method to create a new connect a release message is generating at the border nodes (B20, B30) (Col. 4, lines 65 – Col. 5, lines 43 -54). Where the request has been receive from the user (B20). Which is considered as determining whether the ACM request includes a request that the connection be protected; and if a protected modify connection and switching the connection to the alternate connection and tearing down the original connection. This is the same function as described by the instant application.

Soncodi discloses a non-preemptive method to modify an active connection between a source and a destination and rerouting the traffic to an alternate path before release the original connection in response to some parameters (optimization, QOS/bandwidth, etc.). This is the same function as described by the instant application (Col. 5, lines 24- 29). But, Soncodi does not clear disclose *attempting to implement the ACM along the original connection.*

However, Son clearly teaches a method of managing the resource requirement of an active connection (Page 3, lines 3 – 10).

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to manage the resource requirement of an active connection to determine whether or not a requested bandwidth change will be granted (Page 3, lines 20 –26).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dady Chery whose telephone number is 571-270-1207. The examiner can normally be reached on Monday - Thursday 8 am - 4 pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dady Chery 09/12/2007


RICKY Q. NGO
SUPERVISORY PATENT EXAMINER